IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 1.12.2006

New India Assurance Company Ltd.

...Appellant

versus

Harinder Kaur and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr.Justice Mahesh Grover.

Present: Mr.Suman Jain, Advocate
for the appellant.

UMA NATH SINGH, J. (ORAL)

This FAO arises out of an award dated 2.9.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Ropar, in MACT Case No.74 of 2003, awarding a sum of Rs.2,09,600/- with 9% interest p.a. from the date of institution of the application in death case of a young man of 30 years in a vehicular accident.

In this insurer's appeal, learned counsel submitted that this is a case of hit and run, and today in our society, people are scared to take the injured along to hospitals due to fear of false implication by the police in such cases. Learned counsel further submitted that the FIR was lodged after one hour of the accident and it also did not contain any description of the vehicle, name of the driver, or any eye witness.

We have carefully considered the submissions of learned counsel and we do not find any force therein. Firstly, as per the finding of

the Tribunal, the Insurance Company did not take steps for the production of the driver and the owner of the vehicle in the witness box in support of its contention that this is a case of collusion between the claimants and the owner of the vehicle. As regards the second submission, which does not appear to be directly related to the issue before us, that the accident victims are left on the road unattended due to fear of false implication, we would like to refer to a judgment of Hon'ble the Apex Court reported in AIR 1989 Supreme Court 2039 (Pt.Parmanand Katara versus Union of India and others), wherein the Hon'ble Court has directed that the accident victim should be instantaneously given medical aid and thereafter procedural criminal law should be allowed to operate. It appears that this judgment has not been widely circulated in terms of directions contained in para 9 thereof and, therefore, learned counsel is not aware of it. As regards the next submission about the detailed description in the FIR of the offending vehicle and its driver, we do not find any infirmity in the findings for the reason that the author of the FIR appears to be a stranger and an independent person, who has given only such informations which were available at the time of accident. Thereafter, it was the duty of the police to have traced out the vehicle during the course of investigation. Moreover, a failure on the part of the prosecution to bring home the charge against the accused would not bar a civil cause of action by way of a claim petition under the Motor Vehicles Act, 1988, a beneficial piece of legislation.

Under the circumstances, we do not find any merit in the appeal, and hence it is dismissed in limine. However, we direct the Registrar (General) of this Court to circulate the above judgment of Hon'ble the Apex Court in Pt. Parmanand Katara's case with this order, through the

Director Generals of Police, Punjab and Haryana and the Inspector General of Police, UT, Chandigarh, to the police personnel, through District & Sessions Judges to the subordinate judiciary, and through the Health Secretaries of the said Governments to the hospitals all over to enforce the directions of Hon'ble the Apex Court as given in para 9 of the said judgment.

(UMA NATH SINGH)
JUDGE

December 1, 2006 **(MAHESH GROVER)**
pk **JUDGE**